

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

FAUSTINO XAVIER BETANCOURT-COLON;
VIRGEN NEGRON-VILLEGAS, A.V.R. by her
friend and mother, Widallys Rivera Quiñones;
and WILLIAM RODRIGUEZ BURGOS, on
behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

CITY OF SAN JUAN, a public entity also known
as Municipality of San Juan

Defendant.

Civil No. 19-01837 (GAG)

**MOTION REGARDING PLAINTIFFS' LACK OF COMPLIANCE WITH MEDIATION
ORDER AND REQUEST FOR SANCTIONS**

TO THE HONORABLE COURT:

COMES NOW, Defendant the Municipality of San Juan (the "Municipality") through the undersigned counsel who respectfully states and prays as follows:

1. On June 9, 2022, a mediation session was held in the case of caption. On that mediation session the Court ordered the Municipality to respond to Plaintiffs' comments on the self-assessment plan by June 29, 2022. Additionally, the Court ordered that the parties meet on July 1, 2022, to discuss any items of the self-assessment plan remained in dispute. Docket No. 67. Said meeting was ordered to be held in person in the undersigned's offices.

2. On June 27, 2022, counsel for Plaintiffs requested, through email, that the meeting scheduled for July 1, 2022 be held via the digital zoom platform instead of in person. **Exhibit A** The undersigned agreed to said change to accommodate Mr. Vélez' request. On June 29, 2022,

the Municipality complied with this Court's order and provided the Plaintiffs its response to Plaintiffs' comments to the proposed self-assessment plan.

3. On July 1, 2022, after receiving the Municipality's response to Plaintiffs' comments on the self-assessment plan, counsel for Plaintiffs and the Municipality connected to the scheduled zoom call. In said call counsel for the Plaintiff requested that the meeting be postponed to July 7, 2022. This request was later reiterated by email. **Exhibit B.** As stated in the email, counsel requested the meeting be postponed in order to "prepare a meaningful response" to what the Municipality had sent.

4. Counsel for the Municipality confirmed availability to connect to the zoom call on July 7, 2022, at 5pm. Counsel for Plaintiff sent the link for the meeting through email. **Exhibit C.**

5. Today, July 7, 2022, at 5pm, the undersigned counsel connected to the zoom link provided by Plaintiff. Plaintiffs' counsel never connected or commenced said meeting. Counsel for the Municipality remained in the call for 15 minutes (until 5:15pm) but no one ever started the zoom call.

6. Today, without any reference to his nonappearance at the coordinated conference, Mr. Vélez sends an email to the undersigned proposing a continuance of the mediation session. (See: Exhibit to motion filed by Plaintiffs at Docket 73). Mr. Vélez, however, failed to provide any apology or explanation for leaving the Municipality's attorneys high and dry, while waiting for him on a Thursday afternoon.

7. Like if nothing had happened, Plaintiffs provides a notice to the Court of their intent to move for a continuance. They fail to mention that this continuance is now a *fait accompli* due to their own actions. The parties have not meet, as ordered by the Court, only due to Mr. Vélez' lack of compliance with Court's order. Worse, Mr. Vélez didn't even had the courtesy of notifying

counsel for the Municipality of San Juan of his unavailability on Friday and made three (3) attorneys for the Municipality to waste their time waiting for a zoom call that never occurred.

8. In light of the above, it is seems evident that the mediation session scheduled for this next Wednesday, July 13, 2022 will not be productive and appears to be premature. However, the Municipality must respectfully ask the Honorable Court to sanction the Plaintiffs for both their repeated inattention and disregard to the Court's orders and for wasting the time of the attorneys for the Municipality. A monetary sanction that takes into consideration the time spent by all attorneys both preparing for the meeting and waiting for Mr. Vélez to connect to the meeting should be imposed.

9. The undersigned counsel respectfully request that the Court considers, in the selection of a new mediation hearing date, that the undersigned are currently preparing for a 7 day trial set to start on July 26, 2022 before Honorable Judge Arias in the case of Wiscovitch v. Municipality of San Juan, 18-1029(RAM).

WHEREFORE, the Municipality of San Juan respectfully request that this Court take note of the above and enter any order that it deems necessary.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 9th of July, 2022

I HEREBY CERTIFY that on this same date I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send electronic notification of such filing to all counsel of record.

s/Raúl S. Mariani Franco
Raúl S. Mariani Franco
USDC-PR NO.: 210309

s/Teichka M. Rodríguez Muñoz
Teichka M. Rodríguez Muñoz

USDC-PR NO.: 306509

Mariani-Franco Law, PSC
P.O. Box 9022864
San Juan, PR 00902-2864
Tel. (787) 620-0038
Fax: (787) 620-0039
marianifrancolaw@gmail.com
trodriguez@trmlawpr.com